

MSBA ELDER LAW SECTION E-NEWSLETTER

September 1, 2009

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WHAT'S NEW IN THE ELDER LAW SECTION?

The MSBA year, which began on July 1, 2009, is now well under way. The Elder Law Section Governing Council has been busy planning projects and activities for the 2009-10 year. Over the next few weeks, we'll let members know more about the activities of the section and opportunities to get involved.

The section's biggest project of the year is the annual Elder Law Institute, which offers members the opportunity to learn more about the practice of elder law, earn CLE credits, and network with other attorneys. On October 8th and 9th, the section will present the 19th Annual Elder Law Institute in conjunction with Minnesota CLE. This year's Institute is chock full of valuable programming and will feature a number of highlights:

- **Featured Speaker:** We are delighted to announce that Jane Brody, *New York Times* columnist and author, has agreed to join us for the Institute. Ms. Brody will be speaking at 10:00 a.m. on Thursday morning, October 8th. In her presentation, "Jane Brody's Guide to Preparing for the End of Life," Ms. Brody will provide practical advice for attorneys and their clients on dealing with critical end-of-life issues. As a bonus, the first 300 Institute registrants will receive a free copy of Ms. Brody's best-selling book, Jane Brody's Guide to the Great Beyond,

which *Publishers Weekly* called “an instructive, inspiring, and reassuring work full of compassion and humor.”

- **Breakout Sessions:** This year, twelve breakout sessions will be offered during the afternoon of October 8th, with four topic options available during each of three breakout periods. Written materials on each breakout will be included in the Institute program binder, providing information to attendees on all twelve topics. By offering breakout sessions, we are able to expand the educational opportunities of registrants by providing a wider, more diverse variety of materials.
- **Basics Track.** Also this year, we have expanded the Institute to include a new Basics Track of breakout sessions, which may be of special interest to students and new attorneys - or seasoned attorneys in need of a “refresher.” The Basics Track will offer registrants information on the basics of medical assistance, powers of attorney, and health care directives.

Institute registration information has been sent to all section members. Be sure to register early to assure getting a copy of Jane Brody’s book as part of your registration! Registration is also available online at <http://www.minncle.org/SeminarDetail.aspx?ID=104211001>.

See you at the Elder Law Institute!

Vicki McIntyre

Chair, Elder Law Section Governing Council

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PRO BONO OPPORTUNITY!

The Center for Elder Justice and Policy and SMRLS will be presenting several sessions on advance health care directives at SMRLS' annual Senior Legal Fair on September 17. We need volunteer lawyers who can provide basic information about health care directives to members of various ethnic communities. Sessions are scheduled for 10-10:50, 11-11:50, and 1:15-2:15. Translators will be provided by SMRLS. If you are interested in this opportunity and available for one or more sessions, please email Kim Dayton at kim.dayton@wmitchell.edu.

ELDER LAW NEWS

13 myths surrounding health care reform

<http://www.examiner.com/x-12465-Washington-County-Independent-Examiner~y2009m8d27-13-myths-surrounding-health-care-reform>

AARP breaks healthcare myths – AARP's Six Priorities

<http://www.dl-online.com/event/article/id/47048/>

Mortgage Fraud: A Classic Crime's Latest Twists – As 'Reverse' Loans Grow More Popular, Scams Put Older Adults at Risk

<http://online.wsj.com/article/SB10001424052970204044204574362641338197748.html>

'I feel like I'm in jail' – A court is keeping Isabelle Jessich in a nursing home even though a doctor says she's sane, sober and fit to leave. Is this how guardianship laws should work?

http://www.startribune.com/lifestyle/health/54012872.html?elr=KArksi8cyaiUHK:uUiD3aPc:_Yyc:aUU

The End of Life Debate

http://www.kimt.com/content/localnews/story/The-End-of-Life-Debate/CBR7LUOV7UmEN8hXVU_9A.csp?rss=1689

Experiencing Life, Briefly, Inside a Nursing Home

http://www.nytimes.com/2009/08/24/health/24nursing.html?_r=2&pagewanted=1&em

Disease expert advises people to get H1N1 shots – The vaccine for the seasonal flu has already started arriving in Minnesota, and it's recommended everyone get the shot, particularly the elderly.

<http://minnesota.publicradio.org/display/web/2009/08/28/osterholm-h1n1/>

MINNESOTA CASES

There are no Minnesota cases to report this week.

STATUTES, REGULATIONS, BULLETINS

DHS BULLETIN #09-21-11: CHANGES TO MEDICAL ASSISTANCE (MA) ESTATE RECOVERY, SPECIAL NEEDS AND POOLED TRUSTS, AND 2008 LEGISLATIVE ENACTMENT OF TRANSFER ON DEATH DEEDS: The 2009 Minnesota Legislature passed legislation regarding a number of areas affecting estate recovery, including confirming current estate recovery practice by the Department of Human Services (DHS) and adding reporting requirements for specific trusts. The bulletin provides information and instructions on the following topics:

- Claims in the Estate of the Surviving Spouse (recovery of MA);
- Homestead Hardship Waiver;
- Medicare Cost-Sharing Exemption from Estate Recovery;

- Affidavit of Collections;
- Special Needs Trust and Pooled Trust Reporting Requirement;
- Pooled Trust Beneficiary Requirement;
- Transfer on Death

The bulletin, dated August 18, 2009, is available at:

http://www.dhs.state.mn.us/main/groups/publications/documents/pub/dhs16_146081.pdf

RESCISSION OF INTERIM MEDICAID CASE MANAGEMENT RULE.

Information about a new federal rule with an effective date of July 1, 2009 that rescinds certain provisions of an interim rule related to Medicaid Case Management is available at:

http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=dhs16_140354.

NEW LONG TERM CARE CONSULTATION FACT SHEET FROM DHS. The fact sheet describing Long Term Care Consultation, a service offered by DHS to assist elders and their families in making long term care decisions, is available at:

<http://edocs.dhs.state.mn.us/lfserver/Legacy/DHS-5358-ENG>.

UPCOMING EVENTS AND CLE PROGRAMS

Elder Law Institute

Minnesota CLE Conference

October 8-9, 2009

Contact Information: <http://www.minncle.org/SeminarList.aspx> or 1 800-759-8840.

Estate Planning in Uncertain Times (including Medical Assistance)

Minnesota CLE Live Presentation

October 19, 2009

Contact Information: <http://www.minncle.org/SeminarList.aspx> or 1 800-759-8840.

ELDER LAW SECTION ACTIVITIES

GOVERNING COUNCIL MEETING: The next meeting of the Elder Law Section Governing Council will be at 12:30 p.m. on Friday, October 9, 2009, at the conclusion of the Elder Law Institute, at the Minnesota CLE Conference Center, 3rd floor City Center, Minneapolis. All members are welcome to attend. To participate by phone, please contact Vicki McIntyre at vmcintyre2@yahoo.com or 612-722-8572.

MA COMMITTEE MEETING: The next MA Committee meeting will be at 3:30 p.m. on Tuesday, October 20, 2009, at the MAO Offices, 2021 E. Hennepin, Suite 200, Minneapolis. Topics for the meeting may be submitted to MA Committee Chair, Cathryn Reher, at creher@mnelderlaw.com, or faxed to 952-542-9201. For directions, or to attend by phone, please contact Tracie Fenske with Long, Reher & Hanson, P.A. at 952-929-0622.

VULNERABLE ADULT COMMITTEE MEETING: The next meeting of the Vulnerable Adult Committee will be Thursday, October 29, at Noon, at the offices of Pearson, Randall, Schumacher & LaBore, P.A., 100 S. 5th Street, Suite 1025, Minneapolis, 612.767.7500. Contact co-chairs Ken LaBore at klabore@prslegal.com or Joel Smith at joel@koslaw.com for more information.

GREATER MINNESOTA COMMITTEE: Please contact Bonita Kallestad at 1-320-235-9600 or bkallestad@westernlegal.org with issues you would like the Greater Minnesota Committee to address. Also contact Bonita if you would like to serve on the Greater Minnesota Committee.

DON'T FORGET THAT THE ELDER LAW WEBSITE IS A GREAT RESOURCE. Here's what you can find on the Website: Links to the DHS Health Care Programs Manual, the DHS Bulletin on treatment of uncompensated transfers, the Minnesota Bankers Association Compliance Bulletin on Powers of Attorney, legislative summary; Practice Links to organizations such as NAELA, ABA Commission on Law and Aging, Links to Federal and State Government Agencies, Statutes, and Regulations; Meeting Notices, Listings of Officers and Council Members, Section Bylaws, and more.

To access the ELDER LAW SECTION WEBSITE

Click here: <http://www2.mnbar.org/sections/elder-law/index.asp>

Please send E-Newsletter contributions by noon on Saturday of each week to Suzy Scheller at sscheller@prslegal.com.

If you do not wish to receive this E-Newsletter, send your request to be removed from the mailing list to Elyse Farnsworth at efarnsworth@statebar.gen.mn.us.

Current and prior E-Newsletters are posted on the website for the MSBA Elder Law Section and are available at: <http://www.mnbar.org/sections/elder-law/newsletters.asp>.